

FILED

PETER N. PERRETTI, JR.
ATTORNEY GENERAL OF NEW JERSEY

May 11, 1989

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS
DOCKET NO.

IN THE MATTER OF AN INQUIRY INTO
THE CHIROPRACTIC PRACTICE OF

PAUL ZABLOW, D.C.

LICENSED TO PRACTICE CHIROPRACTIC
IN THE STATE OF NEW JERSEY

Administrative Action
FINAL ORDER

This matter was presented to the State Board of Medical Examiners by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, on inquiry into the chiropractic practice of Paul Zablow, D.C. Respondent, who has maintained a professional practice at 137 Evergreen Place, East Orange, New Jersey 07018, is represented by Irwin I. Kimmelman, Esq., of Kimmelman, Wolff and Sampson, P.C.

Dr. Zablow acknowledges that an investigation has disclosed various forms of professional conduct at his office warranting disciplinary action by the Board. Such conduct included, in part, the following patterns of conduct:

(a) Patient records were prepared which were incomplete in terms of physical examinations performed and results recorded. Additionally, there were no x-ray reports in any of the patient files reviewed.

(b) X-rays were prepared, which deviated from accepted standards of practice resulting in non-diagnostic films with improperly marked patient identification, and mis-labelled views.

(c) Not all files contained differential diagnoses. Some had inadequate documentation. Some diagnoses were overstated and not directly derived from the physical examination. Physical examination findings, as reported, did not support the diagnoses presented. Some findings of permanent disability were regularly made, despite the reporting of examination findings which are normal. Diagnoses were not always incorporated into the plan for patient management.

(d) There were billings for services on visit dates unsupported by the patient record, and billings for professional services unsupported by the presence of x-rays for which billings were made.

(e) Insurance claims sometimes contained professional certifications of no previous injuries, despite contrary information in the patient record. Insurance claims sometimes asserted the existence of residual complications which are unsupported by the patient record.

(f) Uniform suggested plans for office treatment regimens were utilized, specifying the suggested dates of treatment, the chiropractic and physical modalities treatments suggested and the fees therefor -- all declared and

contained in a prepared computer printout set up substantially in advance.

(g) For one patient in particular, Ms. L.B., 17 service dates were billed to an insurer, with permanent disability claimed, when the patient had consulted Dr. Zablow on only one occasion.

(h) There was "two-tier" billing, i.e. billing a larger fee for the same professional service where the fee was expected to be paid by a third party insurance carrier or by the settlement in a litigation.

(i) There was prescribing and then selling to patients cervical pillows at a price without disclosing the true cost of the item to him.

(j) Services of an unlicensed employee were permitted and ratified to apply physical modalities to patients without documenting such services or training therefor in the office, and without documenting specific directions for the therapy of each such patient in the chart.

(k) Patients were offered "maintenance care," i.e. regular visits for chiropractic adjustments in the absence of specific complaint.

(l) Reference was made on billing statements to availability of nutritional supplements for purchase.

(m) Publications were available to patients which contain statements without clinical substantiation.

In short, the multiple patient records reviewed contained false and/or misleading statements, omissions, exaggerated diagnoses, charges for non-existent and/or non-diagnostic films, exposure of x-rays to body areas without subjective complaint or objective findings, charges for undocumented service, allowing the application of physical modalities in patient therapy by unlicensed

employees engaging in conduct forbidden by law and/or Board rule, and issuing misleading professional representations. The conduct variously violated N.J.S.A. 45:1-21(b), (c), (d), (e), and (h); 45:9-14.5; 45:9-27.7; 45:9-41.5; and N.J.A.C. 13:35-6.4, -6.5, -6.10, -6.14, and -7.1.

Respondent asserts in defense that his office staff was unskilled and unreliable; that he had relied upon advice given by a consultant in office management in setting up the computer program specifying professional services in a suggested regimen; that he had relied upon disclaimers in brochures sold by a chiropractic service company printing and publishing same; that he was unaware of the Board rules mandating disclosure of cost of products prescribed and sold by a practitioner, and of rules mandating preparation of an appropriate patient record, and of rules limiting the delegation, by a professional, of therapy services by nonlicensed staff, and of standards of chiropractic and radiologic practice in this State. He offers to remediate the problems found by taking appropriate educational and preceptorship courses. When the false insurance billing for patient L.B. was brought to his attention, he stated that the billing was inadvertent; he voluntarily refunded the money paid by the carrier and entered into a consent order with the State Department of Insurance, Insurance Fraud Division, and paid a monetary penalty. At that time, he relied upon his previous attorney's assurance that the consent order with the Department of Insurance would also resolve the concerns of the Medical Board. He offers a willingness to take such corrective action in his practice

as the Board shall require, and points out that his records for patients treated in 1988 subsequent to the investigation, are more complete, with dated and specific progress notes.

The Board has given consideration to all of the above, noting the abuses found here and their character and extent. The Board has considered the erroneous medical histories now extant for these patients, which histories will result in their own consequences for these persons in terms of future employability and insurability. The Board has considered the difficulties faced by a trusting patient and a trusting third party payor in detecting the improper conduct here. Finally, while the Board rejects the defenses and explanations asserted by this respondent, the Board does take into account for settlement purposes the representations of rehabilitation potential claimed by the respondent. For good cause shown,

IT IS on this 10th day of May 1989,

ORDERED:

1. The ~~license~~ ^{(P02) SIX} of respondent shall be suspended for one year, the first ~~four and one half~~ months of which shall be an active suspension and the remainder of which shall be stayed as a period of probation on condition that he comply with all other conditions set forth herein.

2. In consideration of the terms of paragraph 3 below, respondent is assessed investigative costs of \$2,550 and monetary penalties of \$5,450, totalling \$8,000. This sum shall be payable to the State Board of Medical Examiners within ten (10) days of the

entry of this Order.

3. Respondent shall reimburse certain sums to the insurance carriers for patients Mr. J.C.B., Mr. G.C., Mr. R.H., Mr. M.H., Mr. G.J., Mr. K.J., Mr. W.M., Mr. R.M., Mr. F.N. (treated during two separate periods), Mr. R.R., Mr. W.S. (the carrier for Ms. L.B. having already been reimbursed), as follows: \$500 to each carrier, waiving any balance billed but not yet paid. A Certificate of Debt shall be filed by the Board for the specified sums.

4. Respondent shall cease and desist from the conduct criticized herein.

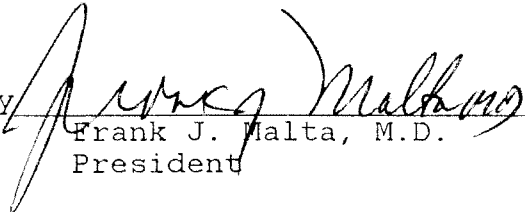
5. Respondent shall comply with the Guidelines for Disciplined Licensees, attached hereto and incorporated by reference as applicable to chiropractic.

6. Prior to the conclusion of the active period of suspension, respondent shall appear before a Committee of the Board to discuss his status. At such conference he shall demonstrate familiarity with rules of the Board pertinent to his profession, including particularly those specified in this Order.

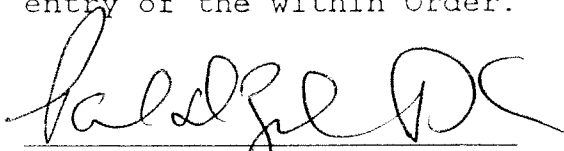
7. Within 12 months of the entry of this Order, respondent shall successfully complete a Board-approved course in chiropractic physical examination and diagnosis, in x-ray technique, in office management, and in recordkeeping.

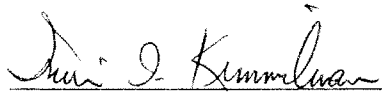
8. This Order shall be effective immediately. The period of active suspension shall commence no later than June 1, 1989, to permit an orderly transfer of patients.

STATE BOARD OF MEDICAL EXAMINERS

By 
Frank J. Malta, M.D.
President

I consent to the terms and entry of the within Order.


Paul Zablow, D.C.


Irwin I. Kimmelman, Esq.
Attorney for Dr. Zablow